

No. 15971✓

United States
Court of Appeals
for the Ninth Circuit

WILSHIRE HOLDING CORPORATION,
Petitioner,
vs.
COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transcript of Record

Petition to Review a Decision of the Tax Court
of the United States

FILED

JUN - 4 1958

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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APPEARANCES

MURRAY M. CHOTINER and
RUSSELL E. PARSONS, by
MURRAY M. CHOTINER,
202 S. Hamilton Dr.,
Beverly Hills, Calif.,
For the Petitioner.

CHARLES K. RICE,
Asst. U. S. Attorney General;
LEE A. JACKSON,
Atty., Dept of Justice,
Washington 25, D. C.,
For the Respondent.

The Tax Court of the United States

Docket No. 32954

WILSHIRE HOLDING CORPORATION,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

MOTION FOR ENTRY OF DECISION
PURSUANT TO MANDATE

Comes Now the Commissioner of Internal Revenue by his attorney, Nelson P. Rose, Chief Counsel, Internal Revenue Service, and moves the Tax Court to enter a decision pursuant to the mandate of the United States Court of Appeals for the Ninth Circuit that there are deficiencies of \$1,584.00 in declared value excess-profits tax, \$3,097.83 in excess-profits tax and \$1,834.06 in income tax, for 1945, and \$2,798.20 in income tax for 1946.

/s/ NELSON P. ROSE, C.A.R.
Chief Counsel,
Internal Revenue Service.

Received and Filed October 30, 1957, T.C.U.S.

Served November 13, 1957.

Entered November 13, 1957.

[Title of Tax Court and Cause.]

OBJECTIONS TO MOTION FOR PROPOSED ENTRY OF DECISION

Comes Now Wilshire Holding Corporation by its attorneys, Murray M. Chotiner and Russell E. Parsons, and objects to the motion of respondent for its proposed entry of decision, based on the affidavit attached hereto and made a part hereof, and the files and records of the above-entitled action.

WILSHIRE HOLDING
CORPORATION,

MURRAY M. CHOTINER and
RUSSELL E. PARSONS,

By /s/ MURRAY M. CHOTINER,
Attorneys for Petitioner.

AFFIDAVIT OF MURRAY M. CHOTINER

State of California,
County of Los Angeles—ss.

Murray M. Chotiner, being first duly sworn, deposes and says.

That he is one of counsel for petitioner Wilshire Holding Corporation. On October 14, 1957, the Supreme Court of the United States denied petitioner's petition for writ of certiorari to the United States Court of Appeals, for the Ninth Circuit, in connection with the above-entitled matter. That

thereafter and within the time provided for by the rules of the United States Supreme Court, petitioner filed a petition for rehearing of the petition for writ of certiorari, and that neither petitioner nor its counsel has received notice of any ruling by the Supreme Court of the United States on said petition for rehearing.

That the United States Court of Appeals for the Ninth Circuit, in reversing the decision of the Tax Court of the United States in the above-mentioned matter, stated in its opinion "Certainly a part of each payment is going toward the acquisition of this land and to this extent Wilshire Corporation does have an equity." That the Tax Court of the United States on November 5, 1957, made an order that the parties submit computations of the petitioner's tax liability in accordance with the opinion and judgment of the Court of Appeals based on the mandate remanding the cause for further proceedings in conformity with the opinion and judgment of the Court of Appeals.

Therefore, on a remanding of the case to the Tax Court of the United States it is respectfully urged that it is incumbent on the Tax Court of the United States to make a determination of what part of each payment is going toward the acquisition of the land and to what extent Wilshire Holding Corporation does have an equity.

In this action title to real property appraised at from \$50,000 to \$75,000 passes after the payment in

excess of \$679,000, and it is therefore necessary to determine what portion of the payments shall be charged to capital as the purchase price of the real property and what portion shall be charged to a deductible expense as rent or interest.

/s/ MURRAY M. CHOTINER.

Subscribed and Sworn to before me this 20th day of November, 1957.

[Seal] /s/ CHARLOTTE B. SARANOW,
Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires August 15, 1961.

Received and Filed November 22, 1957, T.C.U.S.

Served November 27, 1957.

Entered November 27, 1957.

[Title of Tax Court and Cause.]

PETITIONER'S COMPUTATION OF ALLEGED TAX LIABILITY

Comes Now the petitioner, Wilshire Holding Corporation, by its attorneys, Murray M. Chotiner and Russell E. Parsons, and submits the following computation of petitioner's alleged tax liability in accordance with the opinion and judgment of the

United States Court of Appeals for the Ninth Circuit.

The computations are submitted in the alternative, depending on the decision of the Tax Court as to the method which should be used to determine the alleged liability.

The computations are based on the attached schedule, marked "Exhibit A" and made a part hereof; and on the opinion of the United States Court of Appeals for the Ninth Circuit in reversing the decision of the Tax Court of the United States in the above-mentioned matter, in which it stated, "Certainly a part of each payment is going toward the acquisition of this land and to this extent Wilshire Corporation does have an equity."

The figure of \$75,000.00 as constituting the value of the land when the contract was drawn in 1929 is the highest valuation placed on the property for that year, (Tr., p. 74, Dep., pp. 18, 46.)

That under Alternate Plan 1 there is an income tax deficiency of \$259.76, and a declared value excess-profits tax deficiency of \$146.30 for the year 1945, and an income tax deficiency of \$254.91 for the year 1946.

That under Alternate Plan 2 there is an income tax deficiency of \$310.47, and a declared value excess-profits tax deficiency of \$174.86 for the year 1945, and an income tax deficiency of \$304.68 for the year 1946.

Dated this 9th day of January, 1958.

Respectfully submitted,

WILSHIRE HOLDING
CORPORATION,MURRAY M. CHOTINER and
RUSSELL E. PARSONS,By /s/ MURRAY M. CHOTINER,
Attorneys for Petitioner.

“EXHIBIT A”

Wilshire Holding Corporation
Computation of Proposed Income Tax Deficiency
1945 and 1946
Alternate 1

Adjusted Net Income Computation

	1945	1946
Net income, per return filed....	\$13,615.76	\$ 9,910.28
Proposed increase in net income (arising from annual capitalization of 12/212ths of \$75,000.00 value of land; length of lease 212 months..	1,108.37	1,108.37
Net income, as adjusted	<u>\$14,724.13</u>	<u>\$11,018.65</u>
Less: Declared value excess profits tax	623.58	
Net income	<u>\$14,100.55</u>	
Less: Adjusted excess profits net income00	
Normal tax and surtax net income	<u>\$14,100.55</u>	<u>\$11,018.65</u>

Normal Tax Computation

\$ 5,000.00 @ 15%.....	\$ 750.00	\$ 750.00
9,100.55 @ 17%.....	1,547.09	
6,018.65 @ 17%.....		1,023.17

Surtax Computation

\$14,100.55 @ 10%.....	1,410.06	
11,018.65 @ 6%.....		661.11
<hr/>		<hr/>
Total income tax, proposed	\$3,707.15	\$2,434.28
Income tax paid	3,447.39	2,179.37
<hr/>		<hr/>
Income tax deficiency	\$ 259.76	\$ 254.91
		<hr/> <hr/>

Declared Value Excess-Profits Tax

Deficiency (\$623.58 – \$477.28)	146.30	
<hr/>		
Total Deficiency	\$ 406.06	\$ 254.91
		<hr/> <hr/>

Wilshire Holding Corporation

Computation of Proposed Income Tax Deficiency
1945 and 1946

Alternate II—Schedule I

Adjusted Net Income Computation

	1945	1946
Net income, per return filed....	\$13,615.76	\$ 9,910.28
Proposed increase in net income (arising from annual capitalization of pro-rata part of payments under lease; per schedule)	1,324.74	1,324.74
<hr/>		<hr/>
Net income, as adjusted	\$14,940.50	\$11,235.02
		<hr/> <hr/>

Less: Declared value excess profits tax	652.14	
Net income	\$14,288.36	
Less: Adjusted excess profits net income00	
Normal tax and surtax net income	\$14,288.36	\$11,235.02

Normal Tax Computation

\$ 5,000.00 @ 15%.....	\$ 750.00	\$ 750.00
9,288.36 @ 17%.....	1,579.02	
6,235.02 @ 17%.....		1,059.95

Surtax Computation

\$14,288.36 @ 10%.....	1,428.84	
11,235.02 @ 6%.....		674.10

Total income tax proposed.....	\$3,757.86	\$2,484.05
Income tax paid	3,447.39	2,179.37
Income tax deficiency	\$ 310.47	\$ 304.68

Declared Value Excess-Profits Tax

Deficiency (\$652.14 - \$477.28)	174.86	
Total Deficiency	\$ 485.33	\$ 304.68

Wilshire Holding Corporation

Alternate II—Schedule II

Computation of Part of Each Payment Going Toward Acquisition of Land Prorated on Basis of Varying Annual Payments

Year of Lease	Fiscal Year Ended August 31	Total Payments Under Lease	Pro Rata Part of Payments Going Toward Acquisition Total	Annual
1 through 10	1929-1939	\$ 75,000.00	\$ 8,279.61	\$ 827.96
11 through 28	1939-1957	216,000.00	23,845.27	1,324.74
29	1958	11,922.60	1,316.19	
30	1959	11,809.20	1,303.67	
31	1960	11,695.80	1,291.16	

32	1961	11,582.40	1,278.64
33	1962	11,469.00	1,266.12
34	1963	11,355.60	1,253.60
35	1964	11,242.20	1,241.08
36	1965	11,128.80	1,228.56
37	1966	11,015.40	1,216.04
38	1967	10,902.00	1,203.52
39	1968	10,788.60	1,191.00
40	1969	10,675.20	1,178.49
41	1970	10,561.80	1,165.97
42	1971	10,448.40	1,153.45
43	1972	10,335.00	1,140.93
44	1973	10,221.60	1,128.41
45	1974	10,108.20	1,115.89
46	1975	9,994.80	1,103.37
47	1976	9,881.40	1,090.86
48	1977	9,768.00	1,078.34
49	1978	9,654.60	1,065.82
50	1979	9,541.20	1,053.30
51	1980	9,427.80	1,040.78
52	1981	9,314.40	1,028.26
53	1982	9,201.00	1,015.74
54	1983	9,087.60	1,003.22
55	1984	8,974.20	990.70
56	1985	8,860.80	978.19
57	1986	8,747.40	965.67
58	1987	8,634.00	953.15
59	1988	8,520.60	940.63
60	1989	8,407.20	928.11
61	1990	8,293.80	915.59
62	1991	8,180.40	895.12
63	1992	8,067.00	890.55
64	1993	7,953.60	878.04
65	1994	7,840.20	865.52
66	1995	7,726.80	853.00
67	1996	7,613.40	840.48
68	1997	7,500.00	827.96
		<hr/>	<hr/>
		\$679,380.00	\$75,000.00
		<hr/>	<hr/>

Received and filed January 13, 1958, T.C.U.S.

Served January 13, 1958.

Tax Court of the United States

Docket No. 32954

WILSHIRE HOLDING CORPORATION,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

TRANSCRIPT OF PROCEEDINGS

Wednesday, January 29, 1958

Before: Hon. J. Edgar Murdock, Chief Judge.

Appearances:

MURRAY M. CHOTINER, ESQUIRE,

Beverly Hills, California,

Appearing on Behalf of Petitioner.

JOHN MORAWSKI, ESQUIRE,

(Hon. Nelson P. Rose, Chief Counsel, Internal Revenue Service),

Washington, D. C.,

Appearing for Respondent.

The Clerk: Docket 32954, Wilshire Holding Corporation.

The Court: May we have your appearances?

Mr. Chotiner: Murray M. Chotiner, for the Petitioner.

Mr. Morawski: John Morawski, for the Respondent.

The Court: What is this, a contested settlement?

Mr. Morawski: Yes, sir.

The Court: And you do not agree as to how it is to be computed?

Mr. Morawski: That is correct.

Mr. Chotiner: The government contends the full amount paid is a nondeductible item, and under the opinion of the Ninth Circuit we contend that a portion is deductible, and that it is incumbent upon the Tax Court to determine which is and which is not deductible.

We filed two schedules to show that if we take the payment of \$75,000.00——

The Court: I understand what you are talking about.

Mr. Chotiner: This was a lease between the Wilshire Holding Corporation and Wallbecker Oesterreich and we contend the \$12,000.00 per year paid under the contract represents deductible expenses as rent.

The Court: They were going to pay her so much per year, \$12,000.00?

Mr. Chotiner: That is correct.

Your Honor held it was a lease, and the Ninth Circuit reversed the ruling, holding that it was not, and there were two cases, and——

The Court: It is not a lease, so they can buy the property from her, according to the Ninth Circuit?

Mr. Chotiner: That is correct, your Honor.

The Court: And the \$12,000.00 paid each year,

the Court said some part is purchase price, and some is rent?

Mr. Chotiner: It says, "Certainly a part of each payment is going toward the acquisition of this land, and to which extent Wilshire Corporation does have an equity.

Under the terms of the contract Wilshire was paying \$679,000.00 in round figures, and the question is, since the highest appraised value given at the time of the hearing was \$75,000.00 at the time the lease was entered into in 1929 it is our contention that the amount amortized over the total length of the lease of the land should be the portion considered as going toward the acquisition of the land, and we are given two possible contingencies, one to take a straight line computation of \$75,000.00 divided by two hundred twelve months, and taking two hundred twelve months on the alternative plan—it doesn't make much difference—is to take the \$75,000.00 as applied to the \$679,000.00, which is the total amount to be paid under the contract, and apportioning that figure over the 212 months and determining what is going toward acquisition of the principal.

The Court: You are taking the statement of the Court to mean that not all of it is purchase price?

Mr. Chotiner: That is correct, your Honor.

The Court: That is the basis upon which it was adjudicated?

Mr. Chotiner: Yes, sir, and as a matter of fact I think this Court was right, and that the Circuit Court was wrong. But, even taking the decision of

the Ninth Circuit that sentence stands out so boldly there can be no contention as to what was meant there.

That is our position, your Honor.

The Court: Have you anything to say, Mr. Morawski?

Mr. Morawski: Yes, your Honor.

The Ninth Circuit by memorandum dated December 6, 1956, reversed the Tax Court in the instant case of Wilshire upon the basis of its previous opinion in Wallbecker-Oesterreich. This opinion on Oesterreich was handed in October, 1955.

The Oesterreich and Wilshire cases were consolidated before the Tax Court and the Tax Court held that it was a lease, and that these twelve-thousand dollar payments were ordinary income for Mrs. Oesterreich, and were deductible business expenditures to Wilshire.

Mrs. Oesterreich appealed to the Ninth Circuit, and the Commissioner appealed the Wilshire case in order to protect itself in the event of the appeal on the Oesterreich case.

The issue before the Ninth Circuit in the Oesterreich case was whether Mrs. Oesterreich is entitled to treat the twelve-thousand dollar payments as long term capital gain, and conversely whether Wilshire is entitled to treat the payments as non-deductible business expenses under Section 23 (A) (1) (A), or merely as non-deductible capital expenditures.

The Ninth Circuit held this agreement was a contract of sale rather than a lease and further held the twelve-thousand dollar payments are taxable as

long term capital gain by Mrs. Oesterreich, and non-deductible expenditures to Wilshire. Therefore, under the mandate of the Circuit Court it should include the setting forth of a notice of deficiency.

Now, final decision was entered in Mrs. Oesterreich's case on July 31, 1956, on the basis of treating these payments as long term capital gain, and we contend consistent treatment should now be made in the instant case as non-deductible capital expenditures. This will call for the Tax Court finding the same deficiency determined by the Commissioner.

The Tax Court allocated some thirteen-hundred dollars to the land value appraised at \$75,000.99 in 1929. Counsel claims only to the extent of this thirteen-hundred dollars these eighteen-thousand-dollar payments are not deductible, and to the extent of the remainder of the payments some \$10,700.00 they are payable. Your Honor, there is no basis in the record for any such break down.

The Court: Anything else?

Mr. Morawski: Well, this case went up to the Supreme Court under certiorari and was denied, your Honor. In the motion for rehearing before the Supreme Court I think counsel for the first time requested the Supreme Court to remand the case to the Ninth Circuit or to the Tax Court for the purpose of making a break down. That was denied.

The Court: I will study it. Offhand I do not see any way out of it at this point, except to approve the Commissioner's deficiency, because I gave my

best the first time and apparently I was wrong, so that it looks to me in this case you have lost.

But I will study it. The hearing is concluded.

(Whereupon, at 10:15 o'clock a.m. the hearing in the above-entitled matter was concluded.)

Filed January 30, 1958, T.C.U.S.

Tax Court of the United States
Washington

Docket No. 32954

WILSHIRE HOLDING CORPORATION,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

DECISION

For reasons set forth in a memorandum accompanying this decision, it is

Ordered and Decided, that there are deficiencies of \$1,584.00 in declared value excess-profits tax, \$3,097.83 in excess-profits tax and \$1,834.06 in income tax, for 1945, and a deficiency of \$2,798.20 in income tax for 1946.

/s/ J. MURDOCK,

Judge.

[Title of Tax Court and Cause.]

MEMORANDUM ON PROPOSED COMPUTA-
TIONS FOR ENTRY OF DECISION
UNDER MANDATE

This case is before the Court on a dispute between the parties as to the computation of the deficiencies for the years 1945 and 1946 pursuant to the mandate of the United States Court of Appeals for the Ninth Circuit filed on October 28, 1957. That mandate reversed the decision of this Court entered June 8, 1953, on the "previous determination and opinion" of the United States Court of Appeals for the Ninth Circuit in the companion case of *Walburga Oesterreich v. Commissioner*, 226 F. 2d 798 (48 A.F.T.R. 335). The Court of Appeals for the Ninth Circuit, in reversing this Court, (Memorandum Findings of Fact and Opinion entered March 16, 1953), held that the agreement between Oesterreich and this petitioner constituted a sale and not a lease and payments by this petitioner were not deductible rent but constituted part of the purchase price and receipt of the payments by Oesterreich was long-term capital gain rather than ordinary income.

The petitioner here urges that in the course of its opinion the Court of Appeals stated, "Certainly a part of each payment is going toward the acquisition of this land and to this extent Wilshire Corporation does have an equity." The petitioner is of the view that this statement means that not all of the payment was purchase price and it would re-

quire an adjustment in the decisions to be entered by this Court.

The petitioner has taken the language of the Court of Appeals out of context and misconstrued it. The Court of Appeals made the quoted statement in its effort to answer the position taken by the Tax Court that an equity had not yet been acquired by the petitioner because the amount due on the remaining portion of the lease greatly exceeded the appraised value of the property. The Court of Appeals was of the opinion that, since there was a payment of approximately \$160,000 to Oesterreich from 1929 to 1946, and in 1997 the petitioner would acquire property appraised at \$100,000 in 1946, and perhaps worth ten times that amount in 1997, "a part of each payment is going toward the acquisition of this land and to this extent Wilshire Corporation does have an equity."

This is of no moment because the Court of Appeals held that the petitioner was taking title to the property within the meaning of section 23(a)(1)(A) and that alone was "sufficient to disqualify the 'rental' payments from being treated as a business expense."

Accordingly, the computations of the petitioner, filed January 13, 1958, are rejected and the decision will be entered in accord with the Commissioner's computations filed October 30, 1957.

/s/ J. MURDOCK,

Judge.

Dated Washington, D. C., February 6, 1958.

Entered February 6, 1958.

Served February 6, 1958.

[Title of Tax Court and Cause.]

PETITION FOR REVIEW

Petitioner, Wilshire Holding Corporation, respectfully petitions the United States Court of Appeals for the Ninth Circuit to review the adverse decision of the Tax Court of the United States entered on February 6, 1958, ordering deficiencies of \$1,584.00 in declared value excess-profits tax, and \$1,834.06 in income tax, for 1945, and a deficiency of \$2,798.20 in income tax for 1946.

Petitioner alleges:

I.

The controversy herein involves one question:

Is the computation for entry of decision under mandate in accord with the opinion and decision of the United States Court of Appeals for the Ninth Circuit rendered in the companion case of *Walburga Oesterreich v. Commissioner*, 226 F. 2d 798, which was used as the basis of reversing the decision of the Tax Court on motion in the within case?

The Circuit Court held that the contract between Oesterreich and petitioner constituted a sale of real property instead of a lease.

Petitioner contends that the opinion of the Circuit Court stating, "Certainly a part of each payment is going toward the acquisition of this land and to this extent Wilshire Corporation does have an equity," means that only a portion of each pay-

ment under the contract is to be capitalized in determining the reassessment of taxes owing by Wilshire Holding Corporation.

II.

Petitioner contends the computation of the deficiency should be on the following basis:

A. The highest valuation placed on the land in 1929, the date of the contract, was \$75,000.00.

B. The length of the contract is 812 months.

C. The capitalization for each year should therefore be $12/812$ ths of \$75,000.00.

The total amount to be paid under the contract is \$679,380.00. Obviously, the parties never intended, nor should the Court contend, that \$679,380.00 was to be paid for land appraised at \$75,000.00. Petitioner contends this is particularly true in the light of the fact that this is a single-purpose building (a motion picture theatre building) desperately trying to hold its own against the crushing development of television.

III.

On the foregoing formula, there is an income tax deficiency of \$259.76, and a declared value excess-profits tax deficiency of \$146.30 for the year 1945, and an income tax deficiency of \$254.91 for the year 1946.

IV.

The income tax returns for the years 1945 and 1946 involved in this proceeding were filed by the

petitioner in the office of the Collector of Internal Revenue for the Sixth Collection District of California, being the place where the place of business of petitioner is located, the same being in the Ninth Circuit of the United States Court of Appeals.

Petitioner herein respectfully submits that the decision of the Tax Court of the United States computing the alleged tax liability was erroneous and requests the United States Court of Appeals for the Ninth Circuit to review said decision of the Tax Court of the United States.

Dated this 25th day of February, 1958.

MURRAY M. CHOTINER and
RUSSELL E PARSONS,

By /s/MURRAY M. CHOTINER,
Attorneys for Petitioner.

Affidavit of service by mail attached.

Received and filed February 27, 1958, T.C.U.S.

[Title of Tax Court and Cause.]

STATEMENT OF POINTS ON WHICH PETITIONER INTENDS TO RELY ON APPEAL

I.

The Circuit Court of the United States for the Ninth Circuit in heretofore reversing the decision

of the Tax Court of the United States held that a part of each payment made by petitioner to Walburga Oesterreich under the contract went toward the acquisition of the land and to this extent petitioner was acquiring an equity.

II.

The highest appraised value of the land in 1929, the year of the contract, was \$75,000.00; since the total payments required to be made under the 812-month contract of \$679,380.00 is exorbitantly higher than the value of the land, it follows that the equity being acquired each year is $12/812$ ths of \$75,000.00.

III.

The non-deductible payment each year to be capitalized is \$1108.37 which goes toward acquiring an equity in the property.

Dated this 25th day of February, 1958.

MURRAY M. CHOTINER and
RUSSELL, E. PARSONS,

By /s/ MURRAY M. CHOTINER,
Attorneys for Petitioner.

Received and filed February 27, 1958, T.C.U.S.

[Title of Tax Court and Cause.]

CERTIFICATE

I, Howard P. Locke, Clerk of the Tax Court of the United States, do hereby certify that the foregoing documents, 1 to 10, inclusive, constitute and are all of the original papers on file in my office as called for by the "Request for and Designation of Record and Proceedings to be Contained in Record for Review" and "Designation of Additional Portions of Record" (excepting items 1 and 2 of the designation which are not of record in this Court) in the case before the Tax Court of the United States docketed at the above number and in which petitioner in the Tax Court has filed a petition for review as above numbered and entitled, together with a true copy of the docket entries in said Tax Court case as the same appear in the official docket in my office.

In testimony whereof, I hereunto set my hand and affix the seal of the Tax Court of the United States, at Washington, in the District of Columbia, this 10th day of March, 1958.

[Seal] /s/ HOWARD P. LOCKE,
Clerk, Tax Court of the
United States.

[Endorsed]: No. 15971. United States Court of Appeals for the Ninth Circuit. Wilshire Holding Corporation, Petitioner, vs. Commissioner of Internal Revenue, Respondent. Transcript of the Record. Petition to Review a Decision of The Tax Court of the United States.

Filed April 1, 1958.

Docketed April 9, 1958.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for
the Ninth Circuit.

